

Members:

Sen. Patricia Miller, Chairperson
Sen. Luke Kenley
Sen. Anita Bowser
Sen. Allie Craycraft
Rep. Vern Tincher
Rep. John Day
Rep. Timothy Brown
Rep. Dean Young



FAMILY AND SOCIAL SERVICES EVALUATION COMMITTEE

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Authority: P.L. 243-1997

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MEETING MINUTES

Meeting Date: July 28, 1998
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Rm 125
Meeting City: Indianapolis, Indiana
Meeting Number: 6

Members Present: Sen. Patricia Miller, Chair; Sen. Luke Kenley; Rep. John Day.

Members Absent: Sen. Anita Bowser; Sen. Allie Craycraft; Rep. Vern Tincher; Rep. Timothy Brown; Rep. Dean Young.

The sixth meeting of the Family and Social Services Evaluation Committee was called to order at about 10:15 a.m. by Sen. Miller, Chair of the Committee.

Legislative Oversight of Administrative Rules

Ms. Karen Davis General Counsel, FSSA

Ms. Karen Davis, General Counsel for FSSA, described for the Committee the process by which administrative rules are adopted. Ms. Davis' testimony also included a description of the existing checks on agency rulemaking power and the challenges facing FSSA in the rulemaking process. A document summarizing Ms. Davis' testimony was provided to the Committee.¹

Responding to a question from the Committee, Ms. Davis stated that the Governor has the authority to appoint the members of the FSSA Committee. She also stated that the Attorney General is governed by a statutory standard as to the form of the rule and the legality of the rule.

Responding to a question regarding rulemaking in emergency situations, Ms. Davis stated that FSSA does not generally have emergency rulemaking authority like other agencies.

¹This document is on file in the Legislative Information Center, Room 230, State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 W. Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

Sen. Kenley stated that the Administrative Rules Oversight Committee should also be considered a check on agency rulemaking power.

A concern was expressed by Sen. Kenley that some rules can add unnecessary difficulty to citizens and questioned whether the rules are always helpful to the public. He also stated that one of the problems is whether the rules always reflect legislative intent and that the level of detail in rules can actually act as an unnecessary barrier to people. Sen. Kenley also stated that if we had an annual legislative review of rules, the legislature would have the opportunity to approve or not approve and to provide additional guidance. Ms. Davis responded by stating that a benefit of having more rules is that they can give guidance and clarity to the public.

Rep. Day suggested that there may be some middle ground, that perhaps a two to three year sunset date for rules (rather than the current seven years) might be appropriate. He stated that people tend to calm down and get a broader perspective as time passes.

Sen. Miller added that it is often difficult for the public to know the rules. She further stated that the authority for making public policy lies with the General Assembly and she is concerned that other people may be making public policy through the rulemaking process. Sen. Miller added that the Administrative Rules Oversight Committee is limited in the number of rules it can look at with the volume of rules that are promulgated.

LSA staff was requested to provide the Committee with: (1) a review of other states' legislative oversight processes; and (2) the number of rules adopted by various agencies.

State Employees and Long Term Care Insurance

Ms. Mary Ann Hack, Director Indiana Long Term Care Insurance Program

Ms. Mary Ann Hack, Director of the Indiana Long Term Care Insurance Program (ILTCI), described the ILTCI program and provided general information on the costs of long term care and the value of long term care insurance. She also provided information on long term care insurance as a benefit for state employees. Ms. Hack's testimony is summarized in a document provided to the Committee.²

Ms. Hack further stated that there is no benefit option for state employees currently, but beginning later in 1998, the State Personnel Department will meet with the State employee unions to negotiate health care plan designs and offerings, including long term care insurance. Requests for Proposals for the benefits, including long term care insurance, will be issued during the summer of 1999 for contracts to be effective July 1, 2000. Ms. Hack stated that the intent is for the insurance premiums to be paid by the employees electing to purchase the coverage.

Sen. Miller stated that the reason for discussing this issue is that Medicaid costs faced by the state and spend down requirements imposed on nursing home residents would be favorably impacted if more people purchased long term care insurance. She added that a large pool of purchasers would help get costs of long term care insurance policies down so that more people could purchase insurance, thus, driving future Medicaid costs down.

Responding to a question from the Committee as to the number of people with long term care insurance, Ms. Hack stated that through December of 1997, at least for ILTCI Program policies, there were 3,220 individuals owning program policies with expectations of growth due to recent changes made by the General Assembly.

²Copies of this document are on file in the Legislative Information Center (see footnote 1).

Ms. Hack and LSA staff were requested to provide additional information on: (1) the cost to the state of providing long term care insurance to state employees; (2) the number of individuals who have purchased long term care insurance; (3) information regarding the potential savings to the Medicaid Program from additional purchases of long term care insurance; and (4) information on the cost shifting to private payers of nursing home services due to the Medicaid Program.

Licensure Requirement for Social Workers, Mental Health Counselors, and Correctional Counselors

Ms. Cordelia Lewis
Director, Politics and Legislation
AFSCME of Indiana

Ms. Cordelia Lewis, AFSCME of Indiana, described HEA 1961 (1997) which mandates licensure for certain types of employees: social workers, mental health counselors, and correctional counselors. Ms. Lewis' primary concern was that HEA 1961 failed to grandfather or exempt current state employees and that this would result in the termination of employees. She added that more than 600 state employees could be affected by this provision. Ms. Lewis provided documents to the Committee including letters sent to agency heads, a breakdown by agency of employees affected, and classes and job descriptions of employees that may be affected by the provisions of HEA 1961.³

Ms. Lauren Polite
Legislative Liaison, FSSA

Ms. Lauren Polite, FSSA, reported to the Committee that an estimated 232 individuals at FSSA in six different areas may be affected by the licensure requirements of HEA 1961. She also stated that child abuse/child welfare caseworkers, and adoption and family preservation caseworkers were not subject to these requirements. These employees were classified as family case managers rather than as social workers. Sen. Miller stated that it was the intent of the bill to target these individuals.

Ms. Polite stated that FSSA has requested transcripts and work histories from employees, but FSSA has not yet done a file-by-file check. The Health Professions Bureau is close to promulgating rules to implement the provisions of HEA 1961, however, there are no proposed rules for the public to see at this time. After the rules are proposed, FSSA will determine how many employees will need extra training or education to be employed.

Sen. Miller requested that subjects for the next meeting include: (1) continuation of the discussion of the rules oversight issue; (2) continuation of the state employee/long term care insurance issue; (3) the county/state relationship in welfare financing; and (4) the process of compiling and utilizing the reports submitted by the Local Planning Councils.

The next meeting date was established as Thursday, September 3, 1998, at 10:30 a.m.. The meeting will be held in Room 233 of the State House.

There being no further business to conduct, the meeting was adjourned.

³Copies of the documents are on file in the Legislative Information Center (see footnote 1).